

BOARD OF ADJUSTMENT REPORT



MEETING DATE: 3/3/2004

ITEM NO. _____

ACTION REQUESTED: Zoning Ordinance Variance

SUBJECT

Marmel Residence 3-BA-2004

REQUEST

Request to approve a variance from Article V. Section 5.104.E regarding front yard setbacks on a .76+/- acre parcel located at 27684 N 66th Way with Single Family Residential, Environmentally Sensitive Lands, Foothills Overlay zoning (R1-43 ESL FO) zoning.

OWNER / APPLICANT CONTACT

Jim Marmel
480-473-9320

LOCATION

27684 N 66th Wy

CODE ENFORCEMENT ACTIVITY

No code enforcement activity has taken place on the property.

PUBLIC COMMENT

Staff has not received any comments as of the writing of this report.

ZONE

R1-43 ESL/FO (Single Family Residential/Environmentally Sensitive Lands/Foothills Overlay)

ZONING/DEVELOPMENT CONTEXT

The subject property is a recently completed residence within a new subdivision. The surrounding lots also are completed homes.

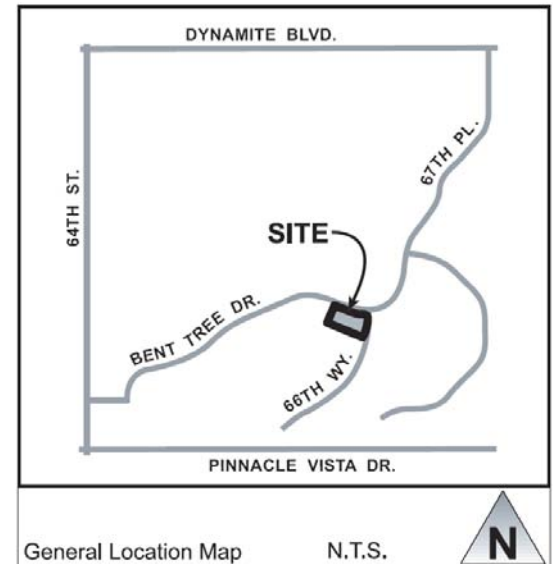
ORDINANCE REQUIREMENTS

Through the use of amended development standards, the ordinance requires a 30 foot front yard on both street frontages for all corner lots.

DISCUSSION

This property is a corner lot, adjacent to a key lot. This condition requires that there be a front yard setback on both street frontages, 66th Way and Bent Tree Drive. This property also has a Natural Area Open Space (NAOS) dedication that acts as a buffer between it and the key lot, which is part of the applicant's justification for this request.

The applicant wishes to obtain a 22 foot variance so they can build their rear yard fence 8 feet from the front setback line.



If the variance is granted, it will comply with the Foothills Overlay zoning requirement that not more than 60% of the lot be enclosed by a wall or structure. This request represents approximately 9,500 square feet of enclosure and 19,863 square feet of enclosure would be allowed for this lot.

FINDINGS

- 1. That there are special circumstances applying to the property referred to in the application which do not apply to other properties in the District. The special circumstances must relate to the size, shape, topography, location or surroundings of the property at the above address:**

The applicant has stated that their lot has an unusually large NAOS dedication. While it is one of the largest, there are several lots in the subdivision with the same circumstance. No site specific features or adjacent land use issues present a special circumstance that might warrant this variance. The presence of the NAOS buffer is a feature that is common throughout the neighborhood. The width of this lot is similar to other corner lots in the neighborhood.

- 2. That the authorizing of the variance is necessary for the preservation of the privileges and rights enjoyed by other properties within the same zoning classification and zoning district:**

The rear yard of this lot will accommodate a smaller recreation area than what the owner would like to have. Granting of this variance would allow them the benefit of a larger rear yard.

- 3. That special circumstances were not created by the owner or applicant:**

The size and configuration of the lot, along with the NAOS buffer, was a decision made by the master developer, not the homeowner.

- 4. That the authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general:**

While the NAOS buffer is not a special circumstance that might be used to justify the variance, it would allow the adjacent key lot to continue to enjoy an open front yard setting extending beyond their property.

STAFF CONTACT

Jayna Shewak, Development Review Manager
Report Author
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ATTACHMENTS

1. Project Narrative
2. Background Information
3. Justification
4. Context Aerial
5. Aerial Close-up
6. Zoning Map
7. Photographs
8. Proposed Site Plan

Project Narrative:

Proposing a privacy fence/wall on the north side of residence. The starting point of the fence/wall will begin at the northeast corner of the residence with a twenty- (20) linear foot setback from the roadway and a seventy- (70) linear foot setback from the roadway perpendicular to the property. The fence/wall shall run parallel to the roadway and finish at the rear northwest corner of the property with a twenty- (20) linear foot setback from the roadway. This fence/wall will enable the homeowner to have approximately an eighteen- (18) linear foot wide side yard adjacent to the residence. The proposed fence/wall will create a barrier to noise created by vehicles, create privacy and enhance security. Please refer to the attached plot plan. Refer also to lot #118 and #97 of the same sub-division, where a variance was allowed for the same situation.

Background Information
For Board of Adjustment

1
STOP SHOP

CASE # 3-BA-2004
PROJECT # 27 - PA - 2004
CONTINUED TO _____
HEARING DATE _____
CHAIRMAN _____

DATE _____
APPROVED AS PRESENTED _____
APPROVED W/STIP _____
DENIED _____

APPLICANT TO FILL OUT THIS PORTION

VARIANCE REQUESTED AT (STREET ADDRESS WHERE VARIANCE IS REQUESTED)

27684 N. 66th WAY SCOTTSDALE, AZ 85262

TO BE COMPLETED BY YOUR COORDINATOR

ARTICLE AND SECTIONS OF ZONING ORDINANCE TO BE VARIED

5.104.5.

SCOTTSDALE ZONING REQUIRES

30' setback from the property line
along Bent Tree Drive

APPLICANT'S REQUEST

8' setback from the above
described property line

AMOUNT OF VARIANCE

22'

PROCEDURES OF THE BOARD OF ADJUSTMENT

There will be three notices of hearing: One on the property, two within 300 feet, and a notice will be published in the daily newspaper, at least 15 days before the hearing, and a notice will be mailed to adjacent property owners, within 300', at least 15 days before the hearing.

The Chairman shall determine what parties are available to represent the applicant, and they shall present the case. The staff will be heard, then those in favor or in opposition. After arguments have been heard, the party representing the owner will have an opportunity for rebuttal after which the Chairman may declare the questioning and argument closed. A vote will then be taken on the matter of approval or denial.

No variance shall be granted resulting in any changes in the uses permitted in any zoning classification or which constitute special privilege.

The application and all maps, plans and other accompanying dates and material shall be available for public inspection during office hours at the office of the building official.

A notice of hearing will be mailed to the applicant 6 days before the hearing.

For information regarding applications please call: 994-7080.

Question 1

My house sits at the southwest corner of Bent Tree and 66th Way. Due to the size of the lot there is not sufficient set back on the Bent Tree side to build a privacy wall. This problem does not apply to the other six "Key Lots" in the sub-division. This problem is unique to my house only.

The size of the NAOS area behind my house is approximately 121 feet wide and the largest by far of all the "Key Lots" in the sub-division. This and the noticeably higher elevation of the house to the west separates the houses sufficiently to break the concept of one continuous front yard.

And finally, of the remaining eight lots on Bent Tree to the end of the street, only three face Bent Tree and the other five front on the side streets. I do not feel that this supports the concept of continuous front yards.

Question 2

I am requesting the zoning variance so that I may have a privacy wall starting at the front of the house and extending to the rear of the lot as shown the revised map submitted with the application. In this way I will have privacy and quiet on the side of the house as do all the other houses in the sub-division. My bedroom and bathroom face Bent Tree and the lack of a privacy wall will have a negative impact on my peace and quiet. Furthermore, the lack of a privacy wall around the house will diminish the value of my house.

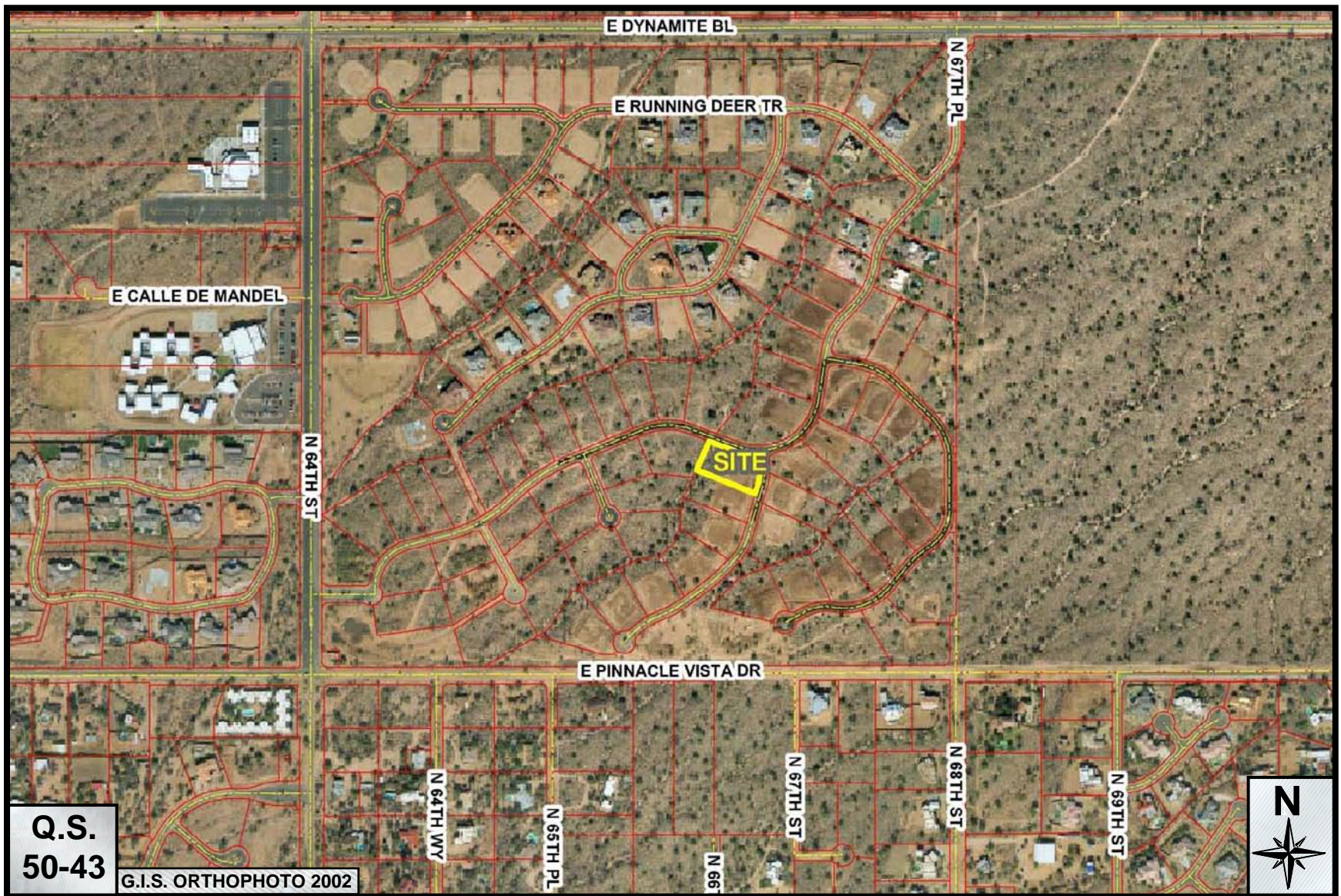
Question 3

The lack of set back was caused by improper plotting of the lots in the sub-division by the builder. I should not be held hostage to their error. This set back problem was never revealed to me at any time during the purchase process or the building of the house. I only discovered it when the landscaper applied for a permit to build the wall.

Question 4

Numerous neighbors in the sub-division, including our immediate neighbors have questioned me repeatedly as to when the privacy wall will be completed. I have explained the reason for the delay and they cannot understand why the City is holding up the approval. They all want to see the privacy wall built and have my house up to their standards.

3-BA-2004



Marmel Variance

3-BA-2004

ATTACHMENT #4



Q.S.
50-43

G.I.S. ORTHOPHOTO 2002



Marmel Variance

3-BA-2004

ATTACHMENT #5



3-BA-2004

ATTACHMENT #6





